



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

NOV 21 2011

Matthew S. McCaulley, Esq.  
Murphy, Goldammer and Prendergast, LLP  
101 North Phillips Avenue, Suite 402  
Sioux Falls, SD 57104

RE: MUR 6415  
Kristi for Congress  
and Ted Husted, in his official  
capacity as treasurer

Dear Mr. McCaulley:

On November 4, 2010, the Federal Election Commission notified your client, Kristi for Congress and Ted Husted, in his official capacity as treasurer, of a complaint alleging that it had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

On November 15, 2011, the Commission considered the complaint, but was unable to agree on findings in this matter and voted to close the file. See Certification of Commission Action in MUR 6415, attached.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). A Statement of Reasons explaining the Commission's decision will follow.

If you have any questions, please contact Phillip A. Olaya, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Shonkwiler".

Mark D. Shonkwiler  
Assistant General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of )  
 ) MUR 6415  
Kristi for Congress and Ted Husted, in )  
his official capacity as treasurer; Kristi )  
Lynn Noem )

CELA

CERTIFICATION

I, Shelley E. Garr, recording secretary of the Federal Election Commission executive session, do hereby certify that on November 15, 2011, the Commission took the following actions in the above-captioned matter:

1. Failed on a vote of 2-4 to:
  - a. Find Reason to Believe that Respondent Kristi for Congress and Ted Husted, in his official capacity as treasurer, violated 2 U.S.C. § 441d and 11 CFR § 110.11 and to authorize the Office of General Counsel to conduct a limited investigation in order to determine the costs associated with the production and dissemination of the newspaper ad consisting of the dark format that occupies the bottom 1/3 of the newspaper page and that did not contain the required disclaimer.
  - b. Authorize the Office of General Counsel to enter into pre-Probable Cause Conciliation with an opening civil penalty offer equal to 20 percent of the costs associated with the production and dissemination of the newspaper ad that did not contain the required disclaimer.

Commissioners Bauerly and Walther voted affirmatively for the motion. Commissioners Hunter, McGahn II, Petersen, and Weintraub dissented.

2. Failed on a vote of 1-5 to:
  - a. Dismiss the allegation that Respondent Kristi for Congress and Ted Husted, in his official capacity as treasurer, violated 2 U.S.C. § 441d and 11 C.F.R. § 110.11.
  - b. Find no reason to believe that Respondent Kristi Lynn Noem violated 2 U.S.C. § 441d and 11 C.F.R. § 110.11.
  - c. Approve the Factual and Legal Analysis as recommended in the First General Counsel's Report dated August 30, 2011.

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- d. Approve the appropriate letters and
- e. Close the file.

Commissioner Weintraub voted affirmatively for the motion. Commissioners Bauerly, Hunter, McGahn II, Petersen, and Walther dissented.

3. Failed on a vote of 3-3 to:

- a. Find no reason to believe that the allegation that Respondent Kristi for Congress and Ted Husted, in his official capacity as treasurer, violated 2 U.S.C. § 441d and 11 C.F.R. § 110.11.
- b. Find no reason to believe that Respondent Kristi Lynn Noem violated 2 U.S.C. § 441d and 11 C.F.R. § 110.11.
- c. Approve the appropriate letters.
- d. Close the file.

Commissioners Hunter, McGahn II, and Petersen voted affirmatively for the motion.

Commissioners Bauerly, Walther, and Weintraub dissented.

4. Decided by a vote of 6-0 to:

- a. Close the file.
- b. Send the appropriate letters.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

November 17, 2011  
Date

Shelley E. Garr  
Shelley E. Garr  
Deputy Secretary of the Commission

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